

DRAFT PROPOSAL # 1 2004.

321 CMR: DIVISION OF FISHERIES AND WILDLIFE.

321 CMR 3.00: HUNTING.

3.02: HUNTING: PARTICULAR GAME.

(4) Hunting and Tagging of Deer. In accordance with the authority vested in me by M.G.L. c. 131, §§ 5, 11 and 72, I hereby declare an open season for the hunting of deer in Massachusetts, subject to the following rules and regulations:

(a) Definitions: For the purposes of 321 CMR 3.02(4) and unless the context requires otherwise, the following words or phrases shall have the following meanings:

Antlerless deer means a deer without antlers, or with antlers the longer of which is less than three inches in length measured on a straight line from the center of the anterior base of the antler burr to the antler tip.

Bait means any natural or artificial substance, including but not restricted to, shucked or unshucked corn, wheat or other grains, hay, silage, apples or other fruits or vegetables, and salt or other chemical compounds of a like nature which may be fed upon, ingested by or which otherwise constitute a nutritive attraction or enticement to deer.

Baited area means any area where baiting has taken place and such area shall remain a baited area for the period from ten days prior to the opening of the exclusive archery season as provided in 321 CMR 3.02(4)(b)2. to 12:00 noon on the day following the close of the exclusive primitive firearms season as provided in 321 CMR 3.02(4)(b)4., all dates inclusive. **In addition, in Zone 14, "baited area" shall include that period from ten days prior to the opening of any October special season as provided for in 321 CMR 3.02(4)(b)3.b. until the opening of the exclusive archery season as provided for in 321 CMR 3.02(4)(b)2., and, from ten days prior to the opening of any February special season as provided for in 321 CMR 3.02(4)(b)3.b. until 12:00 noon on the day following the close of such special season.**

Baiting means the deliberate placing, depositing, distributing, or scattering of bait so as to constitute for deer a lure, attraction, or enticement to or on any area where hunters are attempting to take them.

Barrel Length means that portion of a firearm through which shot is driven, guided, or stabilized.

Bow and Arrow means a bow and arrows of the type and design specified for the hunting of deer, bear, and wild turkey pursuant to 321 CMR 3.01(3).

Caplock means only a type of gunlock that ignites the charge by means of a spark produced by a spring-actuated external cock or hammer directly striking a percussion cap which is placed over an external nipple which transmits the flame of the percussion cap to the powder.

Decoy means an artificial or natural replica or silhouette of a deer, including taxidermy mounts and preparations of a like nature as well as live deer held under restraint.

Director means the Director of the Division of Fisheries and Wildlife or his agent, with primary offices at 251 Causeway Street, Boston, Massachusetts 02114.

Flintlock means only a type of gunlock that ignites the charge by means of a spark produced by a spring-actuated cock or hammer striking a piece of flint against a vertical, pivoted striking plate.

Grunt Tube means a breath-powered, mouth-operated, non-electronic calling device which mimics deer vocalizations, the purpose of which is to attract deer pursuant to the lawful hunting thereof.

Lead Projectile means a round ball, Minie or Maxi bullet, or other spherical or conical projectile composed of lead, lead-antimony, or similar alloys. Notwithstanding the foregoing, sabot projectiles are lawful, regardless of the composition of the sabots.

Loaded from the Muzzle or Muzzle-loading means, with respect to a primitive firearm, that all the powder, any wadding, and the projectile are placed in the muzzle and forced to the other end of the barrel with the aid of a ramrod.

Loaded Primitive Firearm means a primitive firearm which contains a ball or shot in the muzzle and which, in the case of a flintlock, contains powder in the flash pan, and, in the case of a caplock, has a percussion cap on the nipple.

Permanent Tree Stand means that type of hunting platform or structure (emplaced for any period of time) which is fastened to a tree by nails, bolts, wire, or other fasteners which intrude through the bark into the wood of the tree, or, which is fastened or erected in any manner and is emplaced for a period exceeding 30 days.

Primitive Firearm means a flintlock or caplock firearm, either rifled or smoothbore, fired from the shoulder and loaded from the muzzle, and which lacks a break-open breech and has limited range and firepower.

Quabbin Reservoir Area means those parcels of land defined as the Quabbin Reservoir Area pursuant to St. 1972, c. 737, § 1.

Scent means an odoriferous substance, natural or artificial, which replicates or mimics the natural odor or bodily secretions of deer or other wild animals, the purpose of which is to attract deer pursuant to the hunting thereof or to mask the body odor or scent of humans hunting deer.

Shotgun Deer Season means that portion of the open season prescribed in 321 CMR 3.02(4)(b)3.a. and b.

Unloaded Primitive Firearm means a primitive firearm which lacks one or more of the components of a loaded primitive firearm.

Zone or Zones means the Massachusetts wildlife management zones as described in 321 CMR 3.02(4)(o).

(b) Open Season. The open season shall be in four periods as follows:

1. Beginning the last Monday in October and ending the following Saturday, any three days of which may be selected by the Director, there shall be a special season for paraplegics exclusively, who may hunt deer by means of a shotgun not larger than ten gauge, including shotguns with a rifled bore, by means of a muzzle-loading firearm, fired from the shoulder, .44 to .775 caliber, or by means of a bow and arrow. Such hunting shall be limited to those specified areas designated by the Director. During this special season, nothing shall prevent the otherwise lawful hunting of birds and mammals in accordance with established statutes and regulations.

2. a. Beginning on the third Monday prior to the first Monday in November and ending the sixth Saturday thereafter, all days inclusive, except on the tribal lands of the Wampanoag Tribe of Gay Head (Aquinnah) in the

Town of Gay Head (Aquinnah) in Dukes County, there shall be a special season for archers exclusively and during this period deer may be hunted only by means of a bow and arrow.

b. Beginning on the third Monday prior to the first Monday in November and ending on the last day of the primitive firearms season as specified in 321 CMR 3.02(4)(b)4., all days inclusive, and only on the tribal lands of the Wampanoag Tribe of Gay Head (Aquinnah) in the Town of Gay Head (Aquinnah) in Dukes County, there shall be a special season for archers. During this period, deer may be hunted only by means of a bow and arrow, provided that during the shotgun deer season for Zone 13 as provided for in 321 CMR 3.02(4)(b)3., and during the primitive firearms season as provided for in 321 CMR 3.02(4)(b)4., deer may also be hunted with such firearms as are specified for those seasons.

3. a. Beginning the first Monday after Thanksgiving and ending the second Saturday thereafter, all days inclusive except Sunday, deer may be hunted throughout Massachusetts except in zones 12 and 13 as described in 321 CMR 3.02(4)(o), by means of a shotgun not larger than ten gauge, including shotguns with a rifled bore, by means of a muzzle-loading firearm, fired from the shoulder, .44 to .775 caliber, or by means of a bow and arrow. Beginning the first Monday after Thanksgiving and ending the following Saturday, all days inclusive, deer may be hunted in zones 12 and 13 as described in 321 CMR 3.02(4)(o), by means of a shotgun not larger than ten gauge, including shotguns with a rifled bore, by means of a muzzle-loading firearm, fired from the shoulder, .44 to .775 caliber, or by means of a bow and arrow.

b. Beginning on the fifth Monday prior to the first Monday in November and ending on the second Saturday thereafter, any six days of which may be selected by the Director, there shall be a special season in Zone 14 only. In addition, beginning on February 1 and ending on the last day of February, any 12 days of which may be selected by the Director, there shall be a special season in Zone 14 only. During both special seasons, deer may be hunted by means of a shotgun not larger than ten gauge, including shotguns with a rifled bore, by means of a muzzle-loading firearm, fired from the shoulder, .44 to .775 caliber, or by means of a bow and arrow.

4. The primitive firearms period of the open season is intended to provide an opportunity to hunt deer in a manner similar to the way our forefathers hunted in the mid-1800's. The primary consideration is to limit the weapons to a type similar to those in common use during that period of history. Basically, that means a single-shot, muzzle-loading firearm with no break-open breech and limited range and firepower. Secondly, the hunter participating in this season should have a relative degree of solitude significantly different from the hunting pressure which is characteristic of the shotgun deer season.

Beginning the third Monday after Thanksgiving and ending on December 31, all days inclusive, deer may be hunted only by means of a primitive firearm using a single lead projectile, or by means of a bow and arrow. Black powder (or synthetic substances such as "Pyrodex" which are approved for competitive muzzle-loading meets by the National Muzzle Loading Rifle Association) is the only powder to be used during this season. Primitive firearms may have smooth or rifled bores and shall not contain more than one usable barrel. In the case of primitive firearms with double bore barrels, one barrel shall be made inoperative by removal of the nipple and hammer. The caliber of a primitive firearm shall be not less than .44 nor more than .775 and only those primitive firearms having a barrel length of 18 inches or longer shall be permitted. A person shall not, except during the paraplegic and shotgun deer seasons, have in his or her possession a shotgun shell loaded with a rifled slug, single ball, buckshot of any size, BB shot or air rifle shot in any place where birds or mammals might be found, except on a skeet, trap or target range between sunrise and sunset, and except for the hunting of waterfowl as provided in 321 CMR 2.03. During the primitive firearm season, nothing in 321 CMR 3.02(4) shall prevent the otherwise lawful hunting of birds and mammals in accordance with established statutes and regulations.

(c) A person shall not hunt a deer during any period of the season except between + hour before sunrise and + hour after sunset ~~Eastern Standard Time~~.

(d) Bag Limit:

1. In all zones a person shall not kill or possess more than two antlered deer.
2. In all zones, a person's bag limit of antlerless deer shall be determined by the number of valid antlerless deer permits and attached deer tags that are possessed by such person. Such antlerless deer shall be in addition to the bag limit of antlered deer specified in 321 CMR 3.02(4)(d)1.
3. In the Quabbin Reservoir Area, a person shall not kill nor possess more than two deer during a calendar year. Both such deer may be antlerless deer, provided that such person has valid antlerless deer permit(s) for the Quabbin Reservoir Area. Such antlerless deer shall be in addition to the bag limit otherwise specified in 321 CMR 3.02(4)(d)2.
4. For the purposes of 321 CMR 3.02(4)(d), antlerless deer may be killed or possessed only in accordance with provisions of 321 CMR 3.02(4)(e).

(e) Antlerless Deer Permit. A person shall not hunt, kill, or possess an antlerless deer in any county, area, or zone unless he or she possesses on his or her person a valid permit from the Director to do so. However, nothing in 321 CMR 3.02(4)(e) shall prevent a person from killing one antlerless deer during the exclusive season for paraplegics, when so authorized by the Director. Except as provided in 321 CMR 3.02(4)(d), no person shall kill or possess more than one antlerless deer in a calendar year.

(f) A person shall not make, set, or use any bait, decoy, torchlight or spotlight, trap, or other like device for the purpose of attracting, ensnaring, taking, injuring, or killing a deer, nor hunt by baiting or within any baited area, nor hunt, drive, worry, or disturb any deer with or by the aid of any noise-making device, provided that nothing in 321 CMR 3.02(4)(f) shall be deemed to prohibit the use of scents or of deer antlers or replicas thereof or of grunt tubes as callers or attractants by persons otherwise lawfully hunting deer.

(g) No person, except on land owned or leased by him or her or except with the express written permission of the landowner or his or her authorized agent, shall construct, maintain, occupy, or use a permanent tree stand.

(h) A person killing a deer shall immediately, before transporting or removing the carcass in any manner from where it was killed, complete and attach to the carcass in a conspicuous manner the deer tag supplied with the person's hunting or sporting license or a legally authorized deer permit. The deer tag when affixed to the deer shall be detached from the license or permit. Said deer tag shall remain attached to the deer until the deer is presented to a duly authorized person or deer checking station, at which time said deer tag shall be surrendered upon request to the official agent in charge thereof. A person shall not possess more than two deer tagged with a deer tag as provided in 321 CMR 3.02(4)(h). The provisions of 321 CMR 3.02(4)(h) relative to tagging requirements shall not apply to a person lawfully hunting without a license.

(i) A person shall not have in his or her possession or under his or her control in any motor vehicle or transport the carcass of a deer unless said carcass or part thereof is open to view, provided that after the deer is tagged with an official seal as provided in 321 CMR 3.02(4)(j), the deer may be concealed.

(j) Within 48 hours after killing a deer, the entire carcass shall be presented by the person killing same to a duly authorized person or checking station designated by the Director for the purpose of being recorded and examined for research purposes and having affixed thereto an official Division seal in such a manner as prescribed by the Director, provided that the following additional requirements shall apply to Dukes and Nantucket counties:

1. any deer taken in Nantucket county shall be checked only on Nantucket island and only at such checking station or by such person as shall be designated by the Director;
2. any deer taken in Dukes county (exclusive of the Town of Gosnold) shall be checked only on Martha's Vineyard island and only at such checking station or by such person as shall be designated by the Director;
3. any deer taken on Cuttyhunk island in the Town of Gosnold shall be checked only on Cuttyhunk island and only at such checking station or by such person as shall be designated by the Director;
4. any deer taken in the Town of Gosnold (exclusive of the island of Cuttyhunk) shall be checked at such

checking station or by such person as shall be designated by the Director; and for the purpose of 321 CMR 3.02(4)(j), jurisdiction for violations of the prescribed procedure shall be that jurisdiction where said carcass was possessed after the expiration of 48 hours from the time said deer was killed. The official Division seal shall remain affixed to the deer until the animal is cut up or otherwise prepared for food purposes or for tanning or mounting by a taxidermist. Seals shall be non-transferable and shall be valid only for the animal or carcass to which applied by a designated Division of Fisheries and Wildlife representative.

(k) A person killing an antlerless deer by authority of a valid permit issued by the Director shall surrender said valid permit upon request at the time the deer is checked by a duly authorized person or deer checking station designated by the Director.

(l) During the shotgun deer season a person shall not hunt any bird or mammal or enter the fields or woodlands of the state with any firearm, ammunition, bow and arrow, or other device intended or adapted for the taking of birds and mammals, except for the hunting of deer or for the hunting of migratory game birds in accordance with 321 CMR 3.02(2). After having killed the season limit of deer applicable to the county, zone or area where hunting, a person shall not, during the remainder or duration of the shotgun deer season, hunt any bird or mammal or enter the fields or woodlands of the state with any firearm, ammunition, bow and arrow, or other device intended or adapted for the taking of birds and mammals, except for the hunting of migratory game birds in accordance with 321 CMR 3.02(2). Nothing in 321 CMR 3.02(4)(l) shall be construed to prohibit the otherwise lawful setting and tending of traps in accordance with the provisions of 321 CMR 3.02(5).

(m) During the shotgun deer season, a person shall not hunt a bird or mammal with a rifle, revolver, or pistol or by the aid of a dog, or have in his or her possession or under his or her control in any wood or field a rifle, revolver or pistol or a dog adapted to the hunting or pursuing of birds or mammals, except that this shall not prohibit the use of dogs while hunting waterfowl on coastal waters. Notwithstanding the above, shotguns with a rifled bore may be used for hunting in accordance with 321 CMR 3.02(4)(b). During the exclusive archery period of the open season a person hunting or in pursuit of deer shall not use, have in his or her possession or under his or her control in any field or woodland a dog, a rifle, a shotgun, or a firearm of any kind, nor shall he or she have in his or her possession any shotgun shells loaded with a single ball or slug or shot larger than number one in any place where birds or mammals might be found. During the exclusive primitive firearms season a person hunting deer shall not use, have in his or her possession or under his or her control in any field or woodland, a dog or firearm, except a primitive firearm.

(n) During the shotgun deer season, a person hunting deer or migratory game birds, or entering the fields, woodlands, or wetlands of the state for the purpose of hunting deer or migratory game birds, shall wear in a conspicuous manner on his or her chest, back and head, a minimum of 500 square inches of clothing or material of a hunter orange color as defined by the Director pursuant to 321 CMR 3.01(2), except for persons hunting waterfowl from within a blind or a boat. During the special seasons for paraplegics and primitive firearms, a person hunting deer or entering the fields or woodlands of the state with the intent to hunt deer, including a person hunting deer by means of a bow and arrow, shall wear on his or her head, chest, and back a minimum of 500 square inches of clothing or material of a hunter orange color as defined in 321 CMR 3.01(2).

(o) The Massachusetts wildlife management zones are described as follows:

1. Zone 01 is bounded as follows: northerly by the Vermont border; westerly by the New York border; southerly by a line running along Rt. 20 to the junction with Rt. 7 in Pittsfield, north on Rt. 7 to Rt. 9, and east on Rt. 9 to the junction with the Housatonic River; and easterly by a line running from the Vermont border south along Route 8 to Rt. 9 in Pittsfield.

2. Zone 02 is bounded as follows: northerly by the Vermont border; westerly by Zone 01 and 03; southerly by the Massachusetts Turnpike (I-90) from the intersection with the Housatonic River in the Town of Lee east to

the intersection (dead end) with Bonny Rigg Hill Road in the Town of Becket; and easterly by a line running from the Vermont border south along Rt. 112 to Rt. 143 in the Town of Worthington, along Rt. 143 west to the intersection with the Middle Branch of the Westfield River, then south along the Middle Branch of the Westfield River to the intersection with the East Branch of the Westfield River, south along the East Branch of the Westfield River to Rt. 20 in the Town of Huntington, west along Rt. 20 to Bonny Rigg Hill Road in the Town of Becket, south on Bonny Rigg Hill Road to the intersection with the Massachusetts Turnpike.

3. Zone 03 is bounded as follows: northerly by Zone 01; westerly by the New York border; southerly by the New York and Connecticut border; and easterly by a line running south along the Housatonic River from the junction with Rt. 9 in Pittsfield to the junction with Rt. 20 in Lee, east along Rt. 20 to the junction with Rt. 8 in West Becket, and south along Rt. 8 to the Connecticut border.

4. Zone 04 North (04N) is bounded as follows: northerly by the Vermont border; westerly by Zones 02; southerly by a line running north from the intersection of Route 20 and the East Branch of the Westfield River in Huntington along the East Branch of the Westfield River to the intersection with Route 66, along Rt. 66 to the intersection with Rt. 9 in Northampton, to the intersection with the Connecticut River at the Northampton/Hadley town line; and easterly by the Connecticut River.

Zone 04 South (04S) is bounded as follows: northerly by Zones 02 and 04N; westerly by Zone 03; southerly by the Connecticut border; and easterly by the Connecticut River.

5. Zone 05 is bounded as follows: northerly by the New Hampshire border; westerly by the Connecticut River; southerly by a line running from the intersection of the Connecticut River and Rt. 9 at the Northampton/Hadley line east along Rt. 9 to Rt. 116 in the Town of Hadley, north along Rt. 116 to Rt. 63 in North Amherst, east along Rt. 63 and Pine Street to State Street, northeast along State Street and East Leverett Road to Cushman Road, along Cushman Road to Shutesbury Road in East Leverett, east on Shutesbury Road and Leverett Road to Wendell Road in Shutesbury Center, north along Wendell Road to Locks Pond Road, north on Locks Pond Road to Lake View Road, northeast on Lake View Road to Locks Village Road, north along Locks Village Road to Depot Road in the Town of Wendell, north on Depot Road to Rt. 2A in Wendell Depot, east on Rt. 2A to Rt. 32 in the Town of Athol, south on Rt. 32 to Rt. 62 in the Town of Barre, and east on Rt. 62 to the intersection with Rt. 31 in the Town of Princeton.

6. Zone 06 is bounded as follows: northerly by Zone 05; westerly by Zone 05; southerly by a line running from the intersection of Rt. 9 and Rt. 116 in the Town of Hadley east along Rt. 9 to the intersection with Rt. 32 in the Town of Ware; and easterly by a line running from the intersection of Rt. 32 and Rt. 62 in the Town of Barre south along Rt. 32 to the intersection with Rt. 9 in the Town of Ware.

7. Zone 07 is bounded as follows: northerly by Zones 05 and 06; westerly by Zone 04S; southerly by the Connecticut border; and easterly by a line running from the intersection of Rt. 9 and Rt. 32 in the Town of Ware east along Rt. 9 to the intersection with Rt. 67, southwest along Rt. 67 to the intersection with Rt. 19 in the Town of Warren, and south along Rt. 19 to the Connecticut border.

8. Zone 08 is bounded as follows: northerly by Zone 05; westerly by Zones 06 and 07; southerly by the Connecticut and Rhode Island borders; and easterly by a line running from the intersection of Rt. 62 and Rt. 32 in the Town of Princeton south to Rt. 56 in the Town of Paxton, south on Rt. 56 to Rt. 9 in the Town of Leicester, east on Rt. 9 to Cambridge Street in the City of Worcester, east on Cambridge Street to Rt. 146, and southeast on Rt. 146 to the Rhode Island border.

9. Zone 09 is bounded as follows: northerly by the New Hampshire border; westerly by Zones 05 and 08; southerly by the Rhode Island border; and easterly by a line running from the New Hampshire border southeast on Rt. 3 to the intersection with Rt. I-495 in the Town of Chelmsford, south on Rt. I-495 to the intersection with Rt. 121 in the Town of Wrentham, and southwest on Rt. 121 to the Rhode Island border.

10. Zone 10 is bounded as follows: northerly by the New Hampshire border; westerly by Zone 09; southerly by a line running from the intersection of Rt. 1A and Rt. 27 in the Town of Walpole northeast along Rt. 1A to the intersection with Rt. 128 in the Town of Dedham, east on Rt. 128 to the intersection with Rt. 3 in the Town of Braintree, east on Rt. 3 to the intersection with Rt. 228 in the Town of Rockland, and north on Rt. 228 to the Atlantic Ocean at the intersection of Rt. 228 and Nantasket Avenue in the Town of Hull.

11. Zone 11 is bounded as follows: northerly by Zones 09 and 10; westerly by the Rhode Island border; southerly by Buzzards Bay and the Cape Cod Canal; and easterly by the Atlantic Ocean.

12. Zone 12 is bounded as follows: northerly by the Atlantic Ocean (Cape Cod Bay); westerly by Zone 11; southerly by the Atlantic Ocean (Vineyard Sound); and easterly by the Atlantic Ocean.

13. Zone 13 shall consist of Dukes County.

14. Zone 14 shall consist of Nantucket County.

Regulatory Authority: M.G.L. c. 131, §§ 5, 11, 70, and 72.